



## Velasquez Rodriguez v. Honduras

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**Country:** Honduras

**Region:** Americas

**Year:** 1988

**Court:** Inter-American Court of Human Rights Inter-American Court of Human Rights

**Health Topics:** Prisons, Violence

**Human Rights:** Freedom from torture and cruel, inhuman or degrading treatment, Right to bodily integrity, Right to due process/fair trial, Right to liberty and security of person, Right to life

### Facts

This case considered the practice of “forced disappearances” by the Government of Honduras, which included secret surveillance, kidnapping and executions.

The Court found as proved that “[d]uring the period 1981 to 1984, 100 to 150 persons disappeared in the Republic of Honduras, and many were never heard from again.” It recognized patterns in these disappearances that included a distinctive modus operandi of the forces in question, including use of civilian clothing, disguises, and unmarked vehicles. It also found “public and notorious knowledge” that these operations were carried out by, or under orders from, military or police personnel, with clear targeting of persons considered dangerous to State security by Honduran officials. Testimony showed that upon being taken to secret detention facilities, victims were “interrogated... and [subjected] to cruel and humiliating treatment and torture. Some were ultimately murdered and their bodies were buried in clandestine cemeteries.” The Court found further that lawyers and judges who attempted to execute writs of habeas corpus were systematically denied knowledge of the events, and that authorities either denied or failed to adequately undertake investigation into the disappearances.

With regard to the instant case, the Court found that “between 4:30 and 5:00 p.m., several heavily-armed men in civilian clothes driving a white Ford without license plates kidnapped Manfredo Velásquez from a parking lot in downtown Tegucigalpa.” It further confirmed that Velásquez fit the profile of other persons suspected to have been kidnapped and executed, and found that the passage of nearly seven years since the disappearance created the reasonable presumption that he was dead.

The case reached the Court following dismissal of a domestic suit on behalf of Velásquez, as well as multiple unsuccessful attempts to execute writs of habeas corpus domestically. The Inter-American Commission on Human Rights originated petition against the State of Honduras alleging violations of Articles 4, 5 and 7 of the American Convention on Human Rights.

### Decision and Reasoning

The Court held that the Government of Honduras violated Articles 1(1) (obligation to respect rights), 4 (right to life), 5 (right to humane treatment), and 7 (right to personal liberty) of the Convention. The disappearance of Manfredo Velásquez, and subsequent failure of the Government to adequately investigate constituted a violation of his fundamental rights to life, humane treatment, and personal liberty.

The Court stated that forced disappearance is a “multiple and continuous violation” of a variety of rights. Kidnapping is an arbitrary deprivation of liberty and a violation of due process. Prolonged isolation and incommunicado detention are cruel and inhuman treatment. Secret execution without trial is a flagrant violation of the right to life. The Court emphasized that forced disappearances are a “crass abandonment of the values” of the Convention.

Honduras violated its duties to prevent the violations of Velasquez’s rights from the forced disappearance and to carry out an investigation after his disappearance.

The Court noted that the burden of proof depends in part on the special seriousness of the charges and that “circumstantial or presumptive evidence” were critical in allegations of forced disappearances.

## Decision Excerpts

“154. Without question, the State has the right and duty to guarantee its security. It is also indisputable that all societies suffer some deficiencies in their legal orders. However, regardless of the seriousness of certain actions and the culpability of the perpetrators of certain crimes, the power of the State is not unlimited, nor may the State resort to any means to attain its ends. The State is subject to law and morality. Disrespect for human dignity cannot serve as the basis for any State action.”

“155. The forced disappearance of human beings is a multiple and continuous violation of many rights under the Convention that the States Parties are obligated to respect and guarantee. The kidnapping of a person is an arbitrary deprivation of liberty, an infringement of a detainee's right to be taken without delay before a judge and to invoke the appropriate procedures to review the legality of the arrest, all in violation of Article 7 of the Convention which recognizes the right to personal liberty....”

“156. Moreover, prolonged isolation and deprivation of communication are in themselves cruel and inhuman treatment, harmful to the psychological and moral integrity of the person and a violation of the right of any detainee to respect for his inherent dignity as a human being. Such treatment, therefore, violates Article 5 of the Convention, which recognizes the right to the integrity of the person ....

In addition, investigations into the practice of disappearances and the testimony of victims who have regained their liberty show that those who are disappeared are often subjected to merciless treatment, including all types of indignities, torture and other cruel, inhuman and degrading treatment, in violation of the right to physical integrity recognized in Article 5 of the Convention.”

“157. The practice of disappearances often involves secret execution without trial, followed by concealment of the body to eliminate any material evidence of the crime and to ensure the impunity of those responsible. This is a flagrant violation of the right to life, ....”

“182. The Court is convinced, and has so found, that the disappearance of Manfredo Velásquez was carried out by agents who acted under cover of public authority. However, even had that fact not been proven, the failure of the State apparatus to act, which is clearly proven, is a failure on the part of Honduras to fulfill the duties it assumed under Article 1(1) of the Convention, which obligated it to ensure Manfredo Velásquez the free and full exercise of his human rights.

183. The Court notes that the legal order of Honduras does not authorize such acts and that internal law defines them as crimes. The Court also recognizes that not all levels of the Government of Honduras were necessarily aware of those acts, nor is there any evidence that such acts were the result of official orders. Nevertheless, those circumstances are irrelevant for the purposes of establishing whether Honduras is responsible under international law for the violations of human rights perpetrated within the practice of disappearances.”